



Attorney General

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Phoenix, Arizona 85007

Robert R. Corbin

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ARIZONA ATTORNEY GENERAL

June 11, 1984

The Honorable Henry H. Haws
Arizona State Representative
State Capitol - House Wing
Phoenix, Arizona 85007

Re: I84-081 (R84-085)

Dear Representative Haws:

This letter is in response to your recent inquiry concerning the applicability of Ariz. Atty. Gen. Op. I84-062 to nomination petitions circulated in support of a particular candidate pursuant to A.R.S. § 16-314 and the consequences of collection of more than the maximum number of signatures allowed under state law by a particular candidate, contrary to A.R.S. § 16-322.

In Ariz. Atty. Gen. Op. I84-062, we concluded that only the individual signing a petition for an initiative or referendum measure could withdraw his signature. Therefore, that signatory could seek legal action in the event the circulator of an initiative or referendum petition destroyed or refused to file a particular petition. We based our reasoning in that opinion upon A.R.S. § 19-113.A.4 which prescribes the specific procedure for withdrawal of the signatures obtained on an initiative or referendum petition. We stated: "This statute insures that only the elector himself can withdraw his signature." Our conclusion was buttressed by (1) the Arizona Constitution which prescribes that a measure proposed under the initiative provisions "shall" be referred to a vote, Ariz. Const., Art. 4, Pt. 1, (2) the fact that initiative petitions which provide that the signatory makes a "demand" that the proposal be submitted, A.R.S. § 19-102 and (3) the particular method for issuance of the petitions by the Office of the Arizona Secretary of State, see A.R.S. § 19-111.

That analysis does not apply to nomination petitions that are circulated pursuant to A.R.S. § 16-314. Title 16 does not provide the specific and, indeed, exclusive method for withdrawal of signatures, unlike Title 19 as it pertains to initiative and referendum petitions. Moreover, neither the Constitution nor the required language of the nominating petition itself would lead the signatory to believe that the petitions would be filed even if the candidate chooses not to run.

You have also asked about the effect of obtaining more than the maximum number of signatures allowed under state law on a nominating petition. A.R.S. § 16-322 sets forth the minimum and maximum number of signatures that can be obtained for a particular candidate.^{1/} We believe that the legislature intended, in prescribing the maximum number of signatures that can be collected, to prevent a candidate from collecting so many signatures that another candidate is prevented from obtaining the minimum number of necessary signatures.^{2/} However, the legislature did not provide for sanctions or consequences of collection of more than the

1. In the case of a candidate for a county office, a member of the legislature, or superior court judge, A.R.S. § 16-322 provides that nomination petitions shall be signed by at least "3% but not more than 10% of the total vote of the party designated in the county or district or, in the case of a county officer submitting a nomination petition in a county with the population of 200,000 or more, signatures of at least 1% but not more than 10% of the total vote of the party designated in the county or district.

2. This situation could occur because A.R.S. § 16-321 provides that each signer of a nomination petition shall sign only one petition for the same office unless more than one candidate is to be elected to such office.

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maximum amount of signatures. We can find nothing in the law which requires the candidate collecting more than the maximum number of signatures to disqualify himself.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Bob Corbin".

BOB CORBIN
Attorney General

BC:SMS:kmc

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DISTRICT 21



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Arizona House of Representatives
Phoenix, Arizona 85007

May 3, 1984

R84- 085

The Honorable Robert Corbin
The Attorney General
1275 West Washington
Phoenix, AZ 85007

Dear Mr. Corbin:

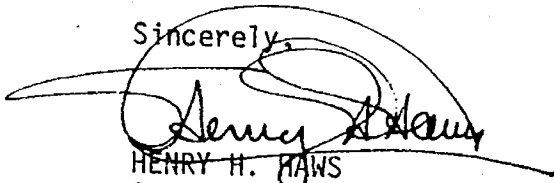
In light of the Opinion which was rendered by you requiring that initiative petitions must be filed once circulated.

I am in a quandry as to nomination petitions to run for office. Once the petitions are circulated, is the candidate required to file those petitions even though he or she should decide not to run?

A second question is: What happens if a person collects more than the maximum number of signatures allowed under state law? - is he required to file those petitions and therefore disqualify himself?

Your prompt attention to this question would be appreciated.

Sincerely,


HENRY H. HAWS
State Representative
District 21

HHH:bbs

16-322